

DUE DILIGENCE FOR LOANS IN REPAYMENT



DUE DILIGENCE REQUIREMENTS FOR ACCOUNTS IN REPAYMENT

The following required procedures are based on the assumption that the borrower does not respond to the lender's due diligence efforts and stays delinquent until default.

NUMBER OF DAYS DELINQUENT

ACTION LENDER MUST TAKE

1-15 days

Send at least one notice or collection letter informing the borrower of the delinquency and urging payment.

The required notice or collection letter must include a lender/servicer contact information and a telephone number (for the customer service department, for example), and a *prominent* statement advising the borrower that assistance may be available if he/she is experiencing difficulty in making a scheduled payment.

16-180 days

Send at least four collection letters.

See below for changes resulting from the Higher
Education Amendments of 1998

All four of the collection letters required to be sent during this period must include information for the borrower concerning deferment, forbearance, income-sensitive repayment, loan consolidation, and other available options to avoid default.

At least two of the collection letters required to be sent during this period must include language warning the borrower that if the loan is not paid (a) the loan may be assigned to the guarantor, which in turn would result in the default being reported to all national credit bureaus, and (b) the guarantor may offset the borrower's state and federal income tax refunds and other payments made by the federal government to the borrower, garnish wages, or assign the loan to the federal government for litigation against the borrower.

AND

Make at least four diligent efforts* to contact the borrower by telephone.

At least one of these diligent efforts* must be made prior to the 90th day of delinquency.

At least one of these diligent efforts* must be made after the 90th day of delinquency.

*A diligent effort equals one successful contact or two attempts to make contact with the borrower.

60-80 days

Send a request for Default Aversion Assistance to the Missouri Student Loan Program's (MSLP) servicer, GuaranTec.

On or after day 151



See below for changes resulting from the Higher Education Amendments of 1998

Send a final demand letter to the borrower requiring the borrower to remit payment in full and warning that if no payment is received, the default will be reported to a national credit bureau.

The lender must allow the borrower at least 30 days after the date the letter is mailed to respond and bring the loan out of default before filing a default claim.

On or after day 181



See below for changes resulting from the Higher Education Amendments of 1998

File a default claim with the MSLP's servicer, GuaranTec. A claim must be received by the MSLP by day 240 to retain special allowance and must be received by day 270 to prevent a timely-filing violation.

Higher Education Amendments of 1998

For loans on which the first day of delinquency on the oldest outstanding due date is on or after October 7, 1998 (due date October 6, 1998), the date of default is the 270th day of delinquency. Until the U.S. Department of Education (USDE) publishes regulations providing due diligence requirements for lenders during the 180-270 day delinquency period, the MSLP expects lenders to conduct the types of activities defined in current regulations and ensure that no gaps of more than 45 days exist.

Skip-tracing activities that are required in the event of invalid address or telephone number are addressed on pages 164 through 165 of this guide.

See page 166 of this guide for further information concerning due diligence required in the event of a rolling delinquency.

For the purpose of advancing the due date, a full payment may be defined as within \$5 of the amount due, or the monthly payment amount. The lender may determine whether to apply this tolerance and whether to apply the tolerance to the amount due or the monthly payment amount. This determination must be part of the lender's established policy and must be applied consistently.

Never allow a gap of more than 45 days (more than 60 days for a transfer)! A gap will result in the immediate loss of guarantee!

See *Common Manual* subsection 8.1.D. for more information.

INVALID TELEPHONE NUMBER

If the lender determines that a borrower's current telephone number is unknown, the lender is required to use all available resources to obtain the borrower's telephone number, including the following:

- Contact directory assistance to locate a new listing
- Make a diligent effort* to contact each endorser, reference, relative, individual, and entity identified on the borrower's most recent loan application
- Contact the financial aid administrator or other school official who may reasonably be expected to know the borrower's address

* Higher Education Amendments of 1998

In order to assure payment on any default claim submitted for insurance, the lender must submit proof that the school was contacted and other reasonable attempts were made to locate the borrower.

The lender must ensure that its servicing history or due diligence log includes documentation of contact with the school as a part of telephone or address skip-tracing efforts.

If all required activities have been performed but the lender has been unsuccessful in locating a valid telephone number for the borrower, the lender is excused from any further efforts to contact the borrower by telephone during the delinquency period in which the unsuccessful effort was made, unless the number is obtained before the 120th day of delinquency.

See *Common Manual* subsection 8.1.H. for more information concerning telephone skip-tracing requirements.

*A diligent effort equals one successful contact or two attempts to contact each entity identified on the borrower's most recent loan application, as described above.

ENDORSER DUE DILIGENCE

During the delinquency period, the lender shall perform at least the following activities:

- Make a diligent effort (one successful contact or two attempts) to contact the endorser by telephone.
- Send two collection letters advising the endorser of the delinquent status of the loan and urging the endorser to resolve the delinquency. At least one of the required collection letters must include language warning the endorser that if the loan is not paid (a) the loan may be assigned to the guarantor, which will result in the default being reported to all national credit bureaus, and (b) the guarantor may offset the borrower's state and federal tax refunds and other payments made by the federal government to the borrower, garnish the borrower's wages, or assign the loan to the federal government for litigation against the borrower.
- Send a final demand letter on or after the 151st day of delinquency requiring payment in full and warning that if no payment is received, the default will be reported to a national credit bureau. The lender must permit the endorser 30 days to respond and bring the loan out of default before filing a default claim.

ADDRESS SKIP-TRACING REQUIREMENTS

A lender is strongly encouraged to begin and complete skip-tracing whenever the borrower's whereabouts are unknown, even if the borrower is current in his or her payments or is in a status when payments are not due.

When a borrower is delinquent, the lender is required to complete all skip-tracing requirements. Address skip-tracing must begin within 10 days of the lender's determination that the borrower's address is invalid. The following efforts must be completed by the date of default, with no gap of more than 45 days between attempts to contact those individuals or entities.

- Make a diligent effort to contact each endorser, relative, reference, individual, and entity identified in the borrower's ***loan file***. A lender's contact with a school official may be with someone other than the financial aid administrator identified on the loan application. Document the date, telephone number, person contacted, and any pertinent information about the borrower. Lenders may make phone calls (two attempts = one diligent effort) or send letters (one letter = one diligent effort) to comply with this requirement.
- Conduct at least two additional, normal, commercial skip-tracing activities.

If the lender is unable to obtain the borrower's current address despite the performance of the above activities, the lender is excused thereafter from performance of normal due diligence activities unless it receives communication indicating the borrower's address before the 151st day of delinquency. In this case, the lender would resume due diligence using the rolling delinquency requirements specific to the delinquency period in which the new address was obtained. See page 166.

* Higher Education Amendments of 1998

In order to assure payment on any default claim submitted for insurance, the lender must submit proof that the school was contacted and other reasonable attempts were made to locate the borrower.

The lender must ensure that its servicing history or due diligence log includes documentation of contact with the school as a part of telephone or address skip-tracing efforts.

See *Common Manual* subsection 8.1.I. for more information concerning address skip-tracing requirements.

ROLLING DELINQUENCY

At the time the lender receives a payment, a payment is refunded for insufficient funds, a deferment or forbearance expires, or the lender receives a correct address or telephone number, the lender performs rolling delinquency activities applicable to the periods listed below.

Number of Days Delinquent - 1 through 15

The 15-day notice is not required when the loan is brought into the 1-15 day delinquency period by a “roll.” If the account subsequently becomes 16 or more days delinquent, the lender must follow due diligence procedures for the 16-180 day period, as outlined on page 161.

Number of Days Delinquent - 16 through 90

During the remainder of the 180-day delinquency period, the lender must make at least two diligent efforts to contact the borrower by telephone. If the lender is unable to contact the borrower by telephone, at least two forceful collection letters shall be sent. If only a single, successful telephone contact is made, the lender shall send at least one forceful collection letter. A default aversion assistance request shall be submitted to the Missouri Student Loan Program’s (MSLP) servicer no earlier than day 60, and no later than day 80. A final demand letter shall be sent on or after day 151.*

Number of Days Delinquent - 91 through 120

During the remainder of the 180-day delinquency period, the lender shall make at least one diligent effort to contact the borrower by the telephone. If the lender is unable to contact the borrower by telephone, at least one forceful collection letter shall be sent. A final demand letter shall be sent on or after day 151.*

Number of Days Delinquent - 121 or more

During the remainder of the 180-day delinquency period, no further diligent efforts to contact the borrower are required. A final demand letter shall be sent on or after day 151.*

* In all cases, the borrower shall be given at least 30 days to respond to the lender’s final demand letter before a claim is filed with the MSLP. See page 171 for claim filing timeframes.

DEFAULT AVERSION ASSISTANCE

☛ Higher Education Amendments of 1998

Default Aversion Assistance Requests (previously Preclaim Assistance (PCA) Requests)

The revised statutes in the Higher Education Act of 1965, as amended, Section 428(l) renames the collection assistance guarantors provide to lenders on delinquent loans “*default aversion assistance*.” Previously, the Missouri Student Loan Program (MSLP) offered collection assistance to a lender on a delinquent loan at the 60th day of delinquency, and considered the lender’s request for assistance timely if received during a 20-day window, from the 50th day through the 70th day of delinquency, as authorized by 34 CFR 682.411(h). According to the revised statutes, however, a guarantor is required to engage in default aversion activities upon receipt of a request from the lender no earlier than the 60th day of delinquency. The MSLP will therefore offer default aversion assistance on the 70th day of delinquency, and will consider a lender’s request for default aversion assistance timely if received during a 20-day window, from the 60th day through the 80th day of delinquency. A lender will be required to resubmit, during the appropriate 60-80 day time frame, any default aversion assistance request that is received by the MSLP’s servicer, Guarantec, before the 60th day of delinquency. This change is effective for default aversion assistance requests received by the MSLP on or after February 15, 1999.

PCA/Default Aversion Assistance Cure Date

Previously, the MSLP required lenders to notify the MSLP in order to cure a PCA request when a payment or other action reduced the borrower’s delinquency to a point on or prior to the 49th day of delinquency. As a result of revisions made to HEA Section 428(l) that address default aversion assistance provided by the guarantor, the MSLP will redefine the point at which a PCA or default aversion assistance request is considered cured. Effective for cure notifications generated by the lender on or after February 15, 1999, the lender is required to notify the MSLP to cure any active PCA or default aversion assistance request when the loan is resolved and brought ***current in payment of both principal and interest*** (the delinquent status of the loan is resolved). An active PCA or default aversion assistance request is one for which the lender has not generated a notification to the MSLP requesting either cure or cancellation as of February 1, 1999.